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FEDERAL ELECTION COMMISSION

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SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL: 05L-36

DATE REFERRED: July 13, 2005

DATE ACTIVATED: March 13, 2006

STATUTE OF LIMITATIONS: August 19, 2009

SOURCE: RAD REFERRAL

RESPONDENTS: Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his official capacity as Treasurer

RELEVANT STATUTES

AND REGULATIONS: 2 U.S.C. § 434(b)(4)
2 U.S.C. § 434(b)(5)
2 U.S.C. § 434(b)(6)(A)
11 C.F.R. § 104.3(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

Bill McCollum was a candidate in the 2003-2004 election cycle for Florida's Senate seat.

His principal campaign committee, Bill McCollum for U.S. Senate, was referred by the Reports

Analysis Division ("RAD") to this Office for failing to report disbursements totaling \$755,839 in

its 2004 12 Day Pre-Primary Report, which was due on August 19, 2004 and timely filed on

August 16, 2004.¹ On October 15, 2004, the Committee filed an Amended 2004 12 Day Pre-

¹ The Federal Election Campaign Act of 1971, as amended ("the Act"), requires the treasurer of a principal campaign committee of a candidate for the Senate to file, in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, disclosure reports including a pre-election report. See 2 U.S.C. § 434(a)(2)(A). The pre-election report must disclose, for the reporting period and the election cycle, the total amount of all disbursements and all disbursements in certain categories, along with the name and address of each person who has received any disbursement in an aggregate amount or value in excess of \$200 within the election cycle, together with the date and amount (and purpose if the disbursement is an "expenditure") of any such disbursement. See 2 U.S.C. §§ 434(b)(4), 434(b)(5) and 434(b)(6)(A).

1 Primary Report that revealed the omitted disbursements, which represented a 161% increase over
2 the amount of financial activity the Committee had originally reported. Based upon the RAD
3 referral, this Office recommends that the Commission find reason to believe that Bill McCollum for
4 U.S. Senate and Richard L. Pilhorn, in his official capacity as Treasurer, violated 2 U.S.C. § 434(b)
5 by failing to disclose disbursements totaling \$755,839 in the Committee's 2004 12 Day Pre-
6 Primary Report, _____

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21 _____ The Committee submitted a letter stating that at the time of the filing of the original
22 report, Florida was in a state of emergency because of Hurricane Charley, and that the Committee
23 was displaced from its office for a week due to no electricity. For these reasons, the Committee

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1 explains that it had to file an incomplete report knowing at the time that it was incomplete. *Id.* The
2 Committee also submitted a letter from the owner of the building that housed its headquarters. This
3 letter identified the time frame during which the building was shut down as "from approximately
4 August 14 through August 21, 2004," and added that "there were numerous other disruptions
5 caused by two succeeding hurricanes." *Id.* The Committee submitted another letter in which it
6 explained that on August 16, 2004, it called the Commission and asked how they should file their
7 report since they "had no access to [their] office," and were informed that there is no exception for
8 late filing and that they should file what they had. *Id.* The Committee stated that, at that time,
9 there were approximately four disbursements to one vendor totaling \$752,880 not yet entered into
10 their computer system, which, according to the Committee, is the reason for the significant increase
11 in disbursements subsequently reported in their Amended 12 Day Pre-Primary Report. *Id.*

12 While we are mindful of Hurricane Charley in the Committee's home State of Florida, the
13 Committee has failed to provide any explanation describing how this event and the one-week
14 closure of its office prevented the Committee from amending its report once its office reopened on
15 August 22, 2004, and certainly before the primary election on August 31, 2004. Further, the
16 Committee has failed to provide any explanation describing how the two additional hurricanes
17 prevented it from filing the amended report before it finally did so on October 15, 2004, 60 days
18 after filing the original report, and 55 days after its office reopened. The Committee stated in its
19 second letter that almost the entire \$755,839 represents four disbursements to one vendor that had
20 not been entered into its computer system before its office was shut down, calling into serious
21 question why, once the office reopened, that information could not have been entered quickly into
22 its computer and the amended report filed before the primary election. In addition, the substantial
23 amount of money at issue, and the fact that the Committee made the four disbursements to the same

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1 vendor shortly before Hurricane Charley, raises the issue of whether, when filing the original
2 report, the Respondents could have disclosed, at the very least, a rough estimate of the
3 disbursements, particularly since other disbursements made by the Committee during the same
4 time-frame were included in the original report.²

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III. RECOMMENDATIONS

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8 1. Open a MUR;
9 2. Find reason to believe that Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his
10 official capacity as Treasurer, violated 2 U.S.C. § 434(b);
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14 4. Approve the attached Factual and Legal Analysis;

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² According to the Amended 12 Day Pre-Primary Report, the Committee made the four disbursements at issue to McLaughlin & Associates, Inc., for advertising: \$136,900 on July 15, 2004; \$136,900 on July 22, 2004; \$233,040 on July 29, 2004; and \$246,040 on August 5, 2004. The Committee's original report disclosed several disbursements made after the dates of these omitted disbursements.

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5. Approve the appropriate letters.


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